



State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

RESEARCH APPENDIX - **PLEASE DO NOT REMOVE FROM DRAFTING FILE**

Date Added To File: 12/18/2002 (Per: ARG)



☞ The drafting file for 2001 LRB -4290

has been transferred to the drafting file for

2003 LRB -1094

☞ This cover sheet, the final request sheet, and the final version of the 2001 draft were copied on yellow paper, and returned to the original 2001 drafting file.

☞ The attached 2001 draft was incorporated into the new 2003 draft listed above. For research purposes, this cover sheet and the complete drafting file were transferred, as a separate appendix, to the 2003 drafting file. If introduced this section will be scanned and added, as a separate appendix, to the electronic drafting file folder.

2001 DRAFTING REQUEST**Bill**Received: **11/12/2001**Received By: **agary**Wanted: **As time permits**

Identical to LRB:

For: **Jerry Petrowski (608) 266-1182**By/Representing: **Kathy Marschman (aide)**This file may be shown to any legislator: **NO**Drafter: **agary**

May Contact:

Addl. Drafters:

Subject: **Transportation - motor vehicles**
Transportation - traffic lawsExtra Copies: **TNF**Submit via email: **NO**

Pre Topic:

No specific pre topic given

Topic:

Location of children in vehicles and use of safety belts and booster seats

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/P1	agary 02/13/2002	hhagen 02/14/2002	rschluet 02/15/2002	_____	lrb_docadmin 02/15/2002		S&L

FE Sent For:

<END>

2001 DRAFTING REQUEST**Bill**

Received: 11/12/2001

Received By: agary

Wanted: As time permits

Identical to LRB:

For: Jerry Petrowski (608) 266-1182

By/Representing: Kathy Marschman (aide)

This file may be shown to any legislator: NO

Drafter: agary

May Contact:

Addl. Drafters:

Subject: **Transportation - motor vehicles**
Transportation - traffic laws

Extra Copies: TNF

Submit via email: NO

Pre Topic:

No specific pre topic given


Topic:

Location of children in vehicles and use of safety belts and booster seats

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
1?	agary	1 p1 kmh 2/14/02					

FE Sent For:

<END>

LRB 4290

11/12/01

Telephone conference with Kathy Marschman in Rep. Petrowski's office, 6-1182.

1. Wants to require child passengers in vehicle under age 12 to ride in the back seat except when (a) the vehicle has no back seat or (b) the back seat is filled with younger children.
2. If not already covered by existing law, wants to require driver to be responsible for safety restraint use for all children in the vehicle under age 16. *see e-mail*
3. Wants to require children between 40 and 80 lbs. to ride in the back seat with a belt positioning booster seat. Not sure about wording. Exempt cars that don't have shoulder belts. Want children to be in a booster seat, not rattling around in the back seat. Wants me to look at other states laws: how do they define? what reqs.? how do they treat older cars? Also check info. from NCSL and NHTSA.

ARG

Gary, Aaron

From: Gary, Aaron
Sent: Thursday, November 29, 2001 3:17 PM
To: Marschman, Kathy
Subject: LRB-4290: seat belt draft

Kathy,

You asked whether current law already makes the driver of a car responsible for safety restraint use by children in the car under age 16. I have reviewed the existing law on this issue. Under the current statutes, the driver is responsible for reasonably ensuring that any child in the car who is age 15 or less and who is either in a front seat or in a back seat with a shoulder harness is properly restrained. s. 347.48 (2m) (c), stats. Do you want the draft to make changes to this provision (in addition to the "back seat" and "booster seat" issues we discussed). If so, what changes? Thanks. Aaron

Aaron R. Gary
Legislative Attorney
Legislative Reference Bureau
608.261.6926 (voice)
608.264.6948 (fax)
aaron.gary@legis.state.wi.us

No response -
left alone
2/13/02



State of Wisconsin
2001 - 2002 LEGISLATURE

LRB-4290/P1

ARG: hnh

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

D-Note

Generate

- 1 AN ACT ...; relating to: child safety restraint systems and seating positions, and
2 providing a penalty.

Analysis by the Legislative Reference Bureau

Under current law, with certain exceptions, no child under the age of ^{four} ~~4~~ years old may be transported in a motor vehicle unless that child is properly restrained in a child safety restraint system (child safety seat), and no child between the ages of ^{eight} ~~4~~ and ^{four} ~~8~~ years old may be transported in a motor vehicle unless that child is properly restrained in a child safety seat or by a safety belt (seat belt). Under specified circumstances, a child being transported may be temporarily removed from a child safety seat or seat belt to attend to the child's needs.

Under this bill, no child weighing between 40 and 80 pounds may be transported in a motor vehicle unless the child is properly restrained ⁱⁿ ~~by~~ a child booster seat, by a seat belt with a shoulder harness in a back seat of the vehicle. This requirement does not apply if the vehicle is not equipped with a back seat or with a shoulder harness in a back seat, if all seating positions in each back seat equipped with a shoulder harness are occupied ^{by} ~~by~~ other children who are properly restrained, or if the child is under the age of ^{four} ~~4~~ and is properly restrained in a child safety seat. Certain exceptions that apply to the child safety seat requirement also apply to this requirement, including the exception allowing temporary removal of the child to attend to the child's personal needs. A person who fails to comply with this requirement is subject to a forfeiture of not less than \$10 nor more than \$25 for a first violation or, for a ^{second} ~~subsequent~~ violation within ^{three} ~~1~~ years, a forfeiture of not less than \$25 nor more than \$200.

second

The bill also prohibits any person from operating a motor vehicle unless he or she reasonably believes that each child being transported who is at least ^{four} 4 years old but less than 12 years old is seated in a designated seating position in a back seat of the vehicle. This requirement does not apply if the vehicle is not equipped with a back seat or if all designated seating positions in each back seat are occupied by younger passengers. A person who fails to comply with this requirement is subject to a forfeiture of \$10.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

X
1 SECTION 1. 347.48 (2m) (c) of the statutes is amended to read:

2 347.48 (2m) (c) If Subject to sub. (4) (a) 2. and 2m. and s. 347.482, if a motor
3 vehicle is required to be equipped with safety belts in this state, no person may
4 operate that motor vehicle unless he or she reasonably believes that each passenger
5 who is at least 4 years old and not more than 15 years old and who is seated at a
6 designated seating position in the front seat required under 49 CFR 571 to have a
7 safety belt installed or at a designated seating position in the seats, other than the
8 front seats, for which a shoulder harness has been installed is properly restrained.

9 SECTION 2. 347.48 (2m) (d) of the statutes is amended to read:

10 347.48 (2m) (d) If Subject to sub. (4) (a) 2. and 2m. and s. 347.482, if a motor
11 vehicle is required to be equipped with safety belts in this state, no person who is at
12 least 4 years old and who is seated at a designated seating position in the front seat
13 required under 49 CFR 571 to have a safety belt installed or at a designated seating
14 position in the seats, other than the front seats, for which a shoulder harness has
15 been installed may be a passenger in that motor vehicle unless the person is properly
16 restrained.

X
17 SECTION 3. 347.48 (4) (a) 2. of the statutes is amended to read:

1 347.48 (4) (a) 2. ~~No~~ Except as provided in subd. 2m., no person may transport
2 a child who is at least 4 years old but less than 8 years old in a motor vehicle unless
3 the child is properly restrained in a child safety restraint system approved by the
4 department under subd. 1. or in a safety belt approved by the department under sub.
5 (2). In this subdivision, "properly restrained" means fastened in a manner
6 prescribed by the manufacturer of the system ~~which~~ ^{that} permits the system to act as a
7 body restraint.

8 SECTION 4. 347.48 (4) (a) 2m. of the statutes is created to read:

9 347.48 (4) (a) 2m. No person may transport a child who weighs at least 40
10 pounds but not more than 80 pounds in a motor vehicle unless the child is properly
11 restrained in a child booster seat positioned at a designated seating position for
12 which a shoulder harness has been installed in a back passenger seat. In this
13 subdivision, "child booster seat" means a child passenger restraint system that
14 meets the applicable federal standards under 49 CFR 571.213 and is designed to
15 elevate a child from a vehicle seat to allow the vehicle's safety belt to be properly
16 positioned over the child's body. In this subdivision, "properly restrained" means
17 wearing a safety belt consisting of a combination lap belt and shoulder harness
18 approved by the department under sub. (2) and fastened in a manner prescribed by
19 the manufacturer of the safety belt so that the safety belt properly fits across a child's
20 lap and the center of a child's chest in a manner appropriate to the child's height,
21 weight, and age ~~which~~ ^{that} permits the safety belt to act effectively as a body restraint.

22 This subdivision does not apply under any of the following circumstances:

- 23 a. The child is being transported in compliance with subd. 1.
24 b. The vehicle is not equipped with a back passenger seat.

1 c. The vehicle is not equipped with a shoulder harness in any back passenger
2 seat.

3 d. Each designated seating position equipped with a shoulder harness in a back
4 passenger seat of the vehicle is occupied by another child who weighs not more than
5 80 pounds and who is properly restrained. ✓

6 SECTION 5. 347.48 (4) (a) 3. (intro.) and a. of the statutes is amended to read:

7 347.48 (4) (a) 3. Notwithstanding subds. 1. ~~and 2.~~ and 2m., a person other than
8 the operator of a motor vehicle transporting a child required to be properly restrained
9 under subd. 1. ~~or 2.~~ or 2m. may temporarily remove a child from a safety restraint
10 system or child booster seat to attend to the personal needs of the child under all of
11 the following conditions:

12 a. When the child safety restraint system or child booster seat is attached to
13 a back passenger seat.

14 SECTION 6. 347.48 (4) (b) of the statutes is amended to read: ✕

15 347.48 (4) (b) The department may, by rule, exempt from the requirements
16 under par. (a) any child who because of a physical or medical condition or body size
17 cannot be placed in a child safety restraint system, child booster seat, or safety belt.

18 SECTION 7. 347.482 of the statutes is created to read: ✕

19 **347.482 Child seating requirements.** No person may operate a motor
20 vehicle unless he or she reasonably believes that each passenger who is at least 4
21 years old but less than 12 years old is seated at a designated seating position in a back
22 passenger seat of the vehicle. This section does not apply if the vehicle is not
23 equipped with a back passenger seat or if all designated seating positions in each
24 back passenger seat of the vehicle are occupied by younger passengers.

25 SECTION 8. 347.487 (title) of the statutes is amended to read: ✕

347.487 (title) Seating Motorcycle seating requirements.

SECTION 9. 347.50 (4) of the statutes is amended to read:

347.50 (4) Any person violating s. 347.48 (4) (a) 2. or 2m. may be required to forfeit not less than \$10 nor more than \$25 for the first offense. For a 2nd or subsequent conviction within 3 years, a person may be required to forfeit not less than \$25 nor more than \$200.

SECTION 10. Initial applicability.

(1) This act first applies to violations committed on the effective date of this subsection, but does not preclude the counting of other violations as prior violations for purposes of sentencing a person.

SECTION 11. Effective date.

(1) This act takes effect on the first day of the 4th month beginning after publication.

(END)

D - Note

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-4290/P1dn

ARG: *hah*

Dade

Under current law, a person may avoid a forfeiture for failure to use a child safety seat if the person provides proof within 30 days after a citation that the person has purchased and installed a child safety seat. See s. 347.50(3)(b). Do you want to include a similar provision for booster seats?

Under current law, child safety seat violations and seat belt violations involving children under the age of 8 are subject to primary enforcement. The attached bill allows for primary enforcement of booster seat violations. Is this consistent with your intent?

A child booster seat is designed to elevate a child so that a vehicle lap belt fits across the child's lap rather than stomach and a vehicle's shoulder harness fits across the child's chest rather than neck. Other states that have passed or proposed legislation have imposed booster seat requirements based upon a child's weight, height, or age, or a combination of these factors. The attached draft imposes booster seat requirements based only upon the child's weight.

I have included a delayed effective date in the bill to allow law enforcement and the public time to learn about the requirements of the bill before compliance becomes mandatory. Is this okay?

Aaron R. Gary
Legislative Attorney
Phone: (608) 261-6926
E-mail: aaron.gary@legis.state.wi.us

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-4290/P1dn
ARG:hmh:rs

February 15, 2002

Under current law, a person may avoid a forfeiture for failure to use a child safety seat if the person provides proof within 30 days after a citation that the person has purchased and installed a child safety seat. See s. 347.50 (3) (b). Do you want to include a similar provision for booster seats?

Under current law, child safety seat violations and seat belt violations involving children under the age of 8 are subject to primary enforcement. The attached bill allows for primary enforcement of booster seat violations. Is this consistent with your intent?

A child booster seat is designed to elevate a child so that a vehicle lap belt fits across the child's lap rather than stomach and a vehicle's shoulder harness fits across the child's chest rather than neck. Other states that have passed or proposed legislation have imposed booster seat requirements based upon a child's weight, height, or age, or a combination of these factors. The attached draft imposes booster seat requirements based only upon the child's weight.

I have included a delayed effective date in the bill to allow law enforcement and the public time to learn about the requirements of the bill before compliance becomes mandatory. Is this okay?

Aaron R. Gary
Legislative Attorney
Phone: (608) 261-6926
E-mail: aaron.gary@legis.state.wi.us



State of Wisconsin
2001 - 2002 LEGISLATURE

LRB-4290/P1
ARG:hmh:rs

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

1 **AN ACT** *to amend* 347.48 (2m) (c), 347.48 (2m) (d), 347.48 (4) (a) 2., 347.48 (4) (a)
2 3. (intro.) and a., 347.48 (4) (b), 347.487 (title) and 347.50 (4); and **to create**
3 347.48 (4) (a) 2m. and 347.482 of the statutes; **relating to:** child safety restraint
4 systems and seating positions and providing a penalty.

Analysis by the Legislative Reference Bureau

Under current law, with certain exceptions, no child under the age of four years old may be transported in a motor vehicle unless that child is properly restrained in a child safety restraint system (child safety seat), and no child between the ages of four and eight years old may be transported in a motor vehicle unless that child is properly restrained in a child safety seat or by a safety belt (seat belt). Under specified circumstances, a child being transported may be temporarily removed from a child safety seat or seat belt to attend to the child's needs.

Under this bill, no child weighing between 40 and 80 pounds may be transported in a motor vehicle unless the child is properly restrained in a child booster seat, by a seat belt with a shoulder harness in a back seat of the vehicle. This requirement does not apply if the vehicle is not equipped with a back seat or with a shoulder harness in a back seat, if all seating positions in each back seat equipped with a shoulder harness are occupied by other children who are properly restrained, or if the child is under the age of four and is properly restrained in a child safety seat. Certain exceptions that apply to the child safety seat requirement also apply to this requirement, including the exception allowing temporary removal of the child to attend to the child's personal needs. A person who fails to comply with this

requirement is subject to a forfeiture of not less than \$10 nor more than \$25 for a first violation or, for a second or subsequent violation within three years, a forfeiture of not less than \$25 nor more than \$200.

The bill also prohibits any person from operating a motor vehicle unless he or she reasonably believes that each child being transported who is at least four years old but less than 12 years old is seated in a designated seating position in a back seat of the vehicle. This requirement does not apply if the vehicle is not equipped with a back seat or if all designated seating positions in each back seat are occupied by younger passengers. A person who fails to comply with this requirement is subject to a forfeiture of \$10.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 347.48 (2m) (c) of the statutes is amended to read:

2 347.48 (2m) (c) If Subject to sub. (4) (a) 2. and 2m. and s. 347.482, if a motor
3 vehicle is required to be equipped with safety belts in this state, no person may
4 operate that motor vehicle unless he or she reasonably believes that each passenger
5 who is at least 4 years old and not more than 15 years old and who is seated at a
6 designated seating position in the front seat required under 49 CFR 571 to have a
7 safety belt installed or at a designated seating position in the seats, other than the
8 front seats, for which a shoulder harness has been installed is properly restrained.

9 **SECTION 2.** 347.48 (2m) (d) of the statutes is amended to read:

10 347.48 (2m) (d) If Subject to sub. (4) (a) 2. and 2m. and s. 347.482, if a motor
11 vehicle is required to be equipped with safety belts in this state, no person who is at
12 least 4 years old and who is seated at a designated seating position in the front seat
13 required under 49 CFR 571 to have a safety belt installed or at a designated seating
14 position in the seats, other than the front seats, for which a shoulder harness has

1 been installed may be a passenger in that motor vehicle unless the person is properly
2 restrained.

3 **SECTION 3.** 347.48 (4) (a) 2. of the statutes is amended to read:

4 347.48 (4) (a) 2. No Except as provided in subd. 2m., no person may transport
5 a child who is at least 4 years old but less than 8 years old in a motor vehicle unless
6 the child is properly restrained in a child safety restraint system approved by the
7 department under subd. 1. or in a safety belt approved by the department under sub.
8 (2). In this subdivision, “properly restrained” means fastened in a manner
9 prescribed by the manufacturer of the system ~~which~~ that permits the system to act
10 as a body restraint.

11 **SECTION 4.** 347.48 (4) (a) 2m. of the statutes is created to read:

12 347.48 (4) (a) 2m. No person may transport a child who weighs at least 40
13 pounds but not more than 80 pounds in a motor vehicle unless the child is properly
14 restrained in a child booster seat positioned at a designated seating position for
15 which a shoulder harness has been installed in a back passenger seat. In this
16 subdivision, “child booster seat” means a child passenger restraint system that
17 meets the applicable federal standards under 49 CFR 571.213 and is designed to
18 elevate a child from a vehicle seat to allow the vehicle’s safety belt to be properly
19 positioned over the child’s body. In this subdivision, “properly restrained” means
20 wearing a safety belt consisting of a combination lap belt and shoulder harness
21 approved by the department under sub. (2) and fastened in a manner prescribed by
22 the manufacturer of the safety belt so that the safety belt properly fits across a child’s
23 lap and the center of a child’s chest in a manner appropriate to the child’s height,
24 weight, and age that permits the safety belt to act effectively as a body restraint. This
25 subdivision does not apply under any of the following circumstances:

- 1 a. The child is being transported in compliance with subd. 1.
- 2 b. The vehicle is not equipped with a back passenger seat.
- 3 c. The vehicle is not equipped with a shoulder harness in any back passenger
- 4 seat.
- 5 d. Each designated seating position equipped with a shoulder harness in a back
- 6 passenger seat of the vehicle is occupied by another child who weighs not more than
- 7 80 pounds and who is properly restrained.

8 **SECTION 5.** 347.48 (4) (a) 3. (intro.) and a. of the statutes are amended to read:

9 347.48 (4) (a) 3. Notwithstanding subds. 1. ~~and 2.~~ and 2m., a person other than

10 the operator of a motor vehicle transporting a child required to be properly restrained

11 under subd. 1. ~~or 2.~~ or 2m. may temporarily remove a child from a safety restraint

12 system or child booster seat to attend to the personal needs of the child under all of

13 the following conditions:

- 14 a. When the child safety restraint system or child booster seat is attached to
- 15 a back passenger seat.

16 **SECTION 6.** 347.48 (4) (b) of the statutes is amended to read:

17 347.48 (4) (b) The department may, by rule, exempt from the requirements

18 under par. (a) any child who because of a physical or medical condition or body size

19 cannot be placed in a child safety restraint system, child booster seat, or safety belt.

20 **SECTION 7.** 347.482 of the statutes is created to read:

21 **347.482 Child seating requirements.** No person may operate a motor

22 vehicle unless he or she reasonably believes that each passenger who is at least 4

23 years old but less than 12 years old is seated at a designated seating position in a back

24 passenger seat of the vehicle. This section does not apply if the vehicle is not

1 equipped with a back passenger seat or if all designated seating positions in each
2 back passenger seat of the vehicle are occupied by younger passengers.

3 **SECTION 8.** 347.487 (title) of the statutes is amended to read:

4 **347.487 (title) Seating Motorcycle seating requirements.**

5 **SECTION 9.** 347.50 (4) of the statutes is amended to read:

6 347.50 (4) Any person violating s. 347.48 (4) (a) 2. or 2m. may be required to
7 forfeit not less than \$10 nor more than \$25 for the first offense. For a 2nd or
8 subsequent conviction within 3 years, a person may be required to forfeit not less
9 than \$25 nor more than \$200.

10 **SECTION 10. Initial applicability.**

11 (1) This act first applies to violations committed on the effective date of this
12 subsection, but does not preclude the counting of other violations as prior violations
13 for purposes of sentencing a person.

14 **SECTION 11. Effective date.**

15 (1) This act takes effect on the first day of the 4th month beginning after
16 publication.

17 (END)